

MINUTES OF THE SPECIAL CITY COUNCIL MEETING
TUESDAY- - APRIL 7, 2020- -5:30 P.M.

Mayor Ezzy Ashcraft convened the meeting at 5:30 p.m.

Roll Call – Present: Councilmembers Daysog, Knox White, Oddie, Vella and Mayor Ezzy Ashcraft – 5.

[Note: Councilmembers Knox White, Oddie and Vella were present via teleconference.]

Absent: None.

The meeting was adjourned to Closed Session to consider:

(20-195) Conference with Real Property Negotiators (Pursuant to Government Code Section 54956.8) Property: Northwest Territories, approximately 1,704 acres of rentable space on the former Naval Air Station Alameda at Alameda Point; City Negotiators: Eric Levitt, City Manager, Lisa Maxwell, Assistant City Attorney, Debbie Potter, Community Development Director, and Nanette Mocanu, Assistant Community Development Director; Negotiating Parties: City of Alameda and Porsche Club of America, Inc.; Under Negotiation: Licensing, price and terms.

(20-196) Conference with Real Property Negotiators (Pursuant to Government Code Section 54956.8) Property: Building 14, approximately 31,194 rentable square feet of building area, located at 1800 Ferry Point at Alameda Point; City Negotiators: Eric Levitt, City Manager, Lisa Maxwell, Assistant City Attorney, Debbie Potter, Community Development Director, and Nanette Mocanu, Assistant Community Development Director; Negotiating Parties: City of Alameda and Navigator Systems; Under Negotiation: Price and terms.

(20-197) Conference with Legal Counsel – Existing Litigation (Pursuant to Government Code § 54956.9); Case Name: City of Evanston, et al., v. Barr; Court: United States Court of Appeals for the Seventh Circuit; Case Number: 19-3358

(20-198) Conference with Legal Counsel – Existing Litigation (Pursuant to Government Code § 54956.9); Case Name: City of Alameda v. Union Pacific; Court: Superior Court of the State of California; Case Numbers: RG18920939

Following the Closed Session, the meeting was reconvened and the City Clerk announced that regarding Union Pacific, staff provided information and Council provided direction by the following roll call vote: Councilmember Daysog: Aye; Knox White: Aye; Oddie: Aye; Vella: Aye; and Mayor Ezzy Ashcraft: Aye; Ayes: 5; regarding Evanston, staff provided information to Council and no vote was taken; regarding Northwest Territories, staff provided information and Council provided direction by the following roll call vote: Councilmember Daysog: Aye; Knox White: Aye; Oddie: Aye; Vella: Aye; and

Mayor Ezzy Ashcraft: Aye; Ayes: 5; regarding Building 14, staff provided information and Council provided direction by the following roll call vote: Councilmember Daysog: Absent; Knox White: Aye; Oddie: Aye; Vella: Aye; and Mayor Ezzy Ashcraft: Aye; Ayes: 4, Absent: 1.

Adjournment

There being no further business, Mayor Ezzy Ashcraft adjourned the meeting at 6:30 p.m.

Respectfully submitted,

Lara Weisiger
City Clerk

The agenda for this meeting was posted in accordance with the Sunshine Ordinance.

MINUTES OF THE REGULAR CITY COUNCIL MEETING
TUESDAY- - APRIL 7, 2020- -7:00 P.M.

Mayor Ezzy Ashcraft convened the meeting at 7:03 p.m. and had everyone make noise to recognize medical personnel, first responders and other essential service workers. Mayor Ezzy Ashcraft led the Pledge of Allegiance.

ROLL CALL - Present: Councilmembers Daysog, Knox White, Oddie, Vella, and Mayor Ezzy Ashcraft – 5.

[Note: Councilmembers Knox White, Oddie and Vella were present via teleconference.]

Absent: None.

AGENDA CHANGES

None.

PROCLAMATIONS, SPECIAL ORDERS OF THE DAY AND ANNOUNCEMENTS

(20-199) Proclamation Declaring March 30th through April 3, 2020 as National Boys and Girls Club Week. [Informational only]

(20-200) Proclamation Declaring April 22, 2020 as Earth Day Alameda 2020 and April 24, 2020 as Arbor Day Alameda 2020. [Informational only]

ORAL COMMUNICATIONS, NON-AGENDA

None.

CONSENT CALENDAR

Councilmember Vella moved approval of the Consent Calendar.

Councilmember Oddie seconded the motion, which carried by the following roll call vote: Councilmembers Daysog: Aye; Knox White: Aye; Oddie: Aye; Vella: Aye; and Mayor Ezzy Ashcraft: Aye. Ayes: 5. [Items so enacted or adopted are indicated by an asterisk preceding the paragraph number.]

(*20-201) Minutes of the Special and Regular City Council Meetings Held on March 3, 2020. Approved.

(*20-202) Ratified bills in the amount of \$5,304,053.64.

(*20-203) Recommendation to Authorize the City Manager to Execute a Four-Year

Agreement for Online Applicant Tracking, Recruitment, and Onboarding Services with Governmentjobs.com Inc. (NEOGOV) in an Amount Not to Exceed \$116,400. Accepted.

(*20-204) Recommendation to Accept the Work of Garland/DBS, Inc. for City Hall Exterior Walls Waterproofing Restoration Project, No. P.W. 07-19-38. Accepted.

(*20-205) Recommendation to Authorize the City Manager to Execute an Agreement with Innovative Construction Solutions, in an Amount Not to Exceed \$407,184, for Alameda South Shore Lagoons 3 and 5 Dredging Project, No. P.W. 09-14-49. Accepted.

(*20-206) Resolution No. 15640, “Declaring the City’s Intention to Revise the Sewer Service Charge and Establish Procedures for Accepting Protests Pursuant to Article XIID, Section 6(a) of the California Constitution Regarding Property-Related Fees and Charges.” Adopted; and

(*20-206A) Recommendation to Set a Public Hearing on June 16, 2020 to Consider Adoption of New Sewer Service Charges. Adopted.

REGULAR AGENDA ITEMS

(20-207) Urgency Ordinance No. 3271, “Suspend During the Local Emergency due to the COVID-19 Pandemic Certain Provisions of the City’s Sunshine Ordinance to the Extent Inconsistent with, or Impose Requirements Beyond Those Explicitly Waived or Waivable by, Executive Orders of the Governor.” Adopted.

The City Attorney gave a brief presentation.

Vice Mayor Knox White moved adoption of the urgency ordinance.

Councilmember Oddie seconded the motion.

Under discussion, Councilmember Daysog inquired whether the changes are specifically about meeting together due to close proximity; and whether the 12-day noticing will still be in-effect.

The City Attorney responded in the affirmative; stated the restrictions are related to meeting proximity; the current 12 and 7 day noticing requirements stand; various provisions within the Sunshine Ordinance which require human interactions are being considered and suspended.

On the call for the question, the motion carried by the following roll call vote: Councilmembers Daysog: Aye; Knox White: Aye; Oddie: Aye; Vella: Aye; and Mayor Ezzy Ashcraft: Aye. Ayes: 5.

(20-208) Urgency Ordinance No. 3272, “(A) Extending the Declaration of the Existence

of a Local Emergency to Respond to the COVID-19 Pandemic for the Duration of the State of California's Emergency Declaration; (B) Authorizing the City Manager to Forego the Competitive Bid Process, Subject to Ratification by the City Council, Consistent with City Charter Section 3-15.2, for the Duration of the Local Emergency; and Approving City Manager Spending Authority of Up to \$2 Million Dollars to Address the Local Emergency." Adopted.

The Assistant City Manager gave a brief presentation.

Mayor Ezzy Ashcraft stated that she would like to see the language that would apply to Charter Section 3-15.2 to seek Council ratification post-spending of each expenditure beyond \$75,000 as soon as practical; the City Manager will need to make fast decisions at times and will not always be able to seek Council approval; noted that she would feel more comfortable if the Charter Section could be cited in the ordinance itself.

Councilmember Daysog inquired the thoughts given to streamlining the competitive bid process; questioned which parts of the competitive bid process are problematic in terms of getting needed items.

The City Manager responded typical bidding procedures can be anywhere from 15 to 30 days in an emergency situation; stated that he is unsure if the normal bidding procedure could be accommodated; staff has been evaluating the purchasing procedures; bidding would not be a problem in a normal situation; the item is related to emergency situations; an item over \$75,000 might need to be purchased in a short time frame; the \$2 million funding is available; however, allocation and budget authorization is not available to be able to spend the funds; there is no current anticipation of spending \$2 million; expressed concern about not having spending authority readily available in the event of emergency needs; stated the emergency is not like a natural disaster; noted that he does not anticipate spending any of the \$2 million funding based on savings in areas that do have authorization.

Councilmember Daysog inquired whether there is a way to streamline the bid process so that there is not a 30-day delay; stated should a good or service be needed, a provider will need to be identified and some level of procurement will be required.

The City Manager responded the concept can be defined more narrowly, such as waiving purchasing policy as bid timelines and restricting to quotes from various vendors; stated the changes should not pose an issue.

Councilmember Oddie stated that he does not want to speculate on the events which could happen; Council owes residents the ability for City Hall to respond quickly to protect residents should things go haywire.

Councilmember Vella concurred with Councilmember Oddie's comments; stated there is a way for Council to check back on the accounting of the funds; expressed concern about being in a position of inability to respond to crisis.

Mayor Ezzy Ashcraft concurred with Councilmembers Oddie and Vella; stated that she would like the ordinance to reference to the Charter Section.

Councilmember Vella moved adoption of the urgency ordinance, adding the Charter language reference.

Councilmember Daysog seconded the motion, which carried by the following roll call vote: Councilmembers Daysog: Aye; Knox White: Aye; Oddie: Aye; Vella: Aye; and Mayor Ezzy Ashcraft: Aye. Ayes: 5.

(20-209) Urgency Ordinance No. 3273, "Imposing within the City of Alameda a Temporary Moratorium on (A) Residential and Commercial Evictions due to the COVID-19 Pandemic and (B) Landlords Shutting off Utilities in Residential and Commercial Rental Units Except for Emergency Situations, and Repealing Ordinance No. 3268." Adopted.

The City Attorney gave a brief presentation.

In response to Councilmember Oddie's inquiry, the Community Development Director stated the ordinance and regulations urge the tenant to provide communication, but it is not mandatory to take advantage of rent deferment.

Councilmember Oddie stated that he has been alerted via social media that some tenants have been locked out of laundry facilities; inquired whether there is a plan to educate people about the emergency ordinance; noted some tenants are receiving letters related to rent being due and payment is needed.

The Community Development Director responded laundry rooms are essential services and must remain open; however, the landlord has the ability to reduce the hours for cleaning and other purposes or to restrict the number of people allowed in the laundry room to enforce social distancing; stated outreach will be similar to the first moratorium ordinance; an additional press release and distribution of an e-mail blast with information to the rent program list of over 3,000 landlords and tenants; the information will be available on the rent program website; the rent program link will be available on the City's website; rent program staff is preparing to field questions and follow-up.

In response to Councilmember Oddie's inquiry, the Community Development Director stated the regulations provide that the landlord cannot target, collect late fees or processing fees if paying by credit card.

Mayor Ezzy Ashcraft expressed gratitude toward the City Attorney's office for addressing a senior citizen's concern related to laundry room cleanliness.

Councilmember Daysog stated it is reasonable to ask tenants to pay what they can and to protect those who make an effort; the emergency ordinance should not protect those

who can cover their rent but refuse to pay; the ordinance, as drafted, addresses his concern under Section 2 Provision 5; outlined the provision; expressed support for the emergency ordinance.

Councilmember Vella inquired whether Centro Legal de la Raza is aware of the emergency ordinance and whether they aware each time it is changed.

The Community Development Director responded in the affirmative; stated once Council takes action, staff will forward the new language and accompanying regulations to Centro Legal.

Councilmember Vella inquired whether any evictions or tenant issues have been reported to Centro Legal aside from the laundry room issue.

The Community Development Director responded that she has not heard any reports from Centro Legal; stated most staff are fielding calls and trying to provide resources.

The City Attorney stated the City Attorney office has received a number of calls with many questions from landlords and tenants about rights and responsibilities; staff has worked to field calls to the best of abilities; in every circumstance, landlords and tenants have been able to reach a reasonable place through mediation; no direct action has been needed and no cases have been referred to Centro Legal.

Councilmember Vella inquired whether the new information could be included in an Alameda Municipal Power (AMP) bill in order to help spread knowledge; expressed concern about only sending the information to a rent registry and not including commercial tenants.

The City Manager responded that he has a request in with the AMP General Manager to have information in upcoming utility bills, but he has not received a response back; stated the request is possible in some form.

Mayor Ezzy Ashcraft inquired whether the action would be a request or a directive.

The City Manager responded the action is currently a request based on printing timing.

The Community Development Director stated a lead time on printing is needed; the City can work with AMP; stated staff will work with the Chamber of Commerce and other business associations in order to push out the information.

The City Attorney stated that his office has prepared an information item for public circulation and has provided the information to the Alameda Sun; staff will continue to provide the information on a regular basis.

Mayor Ezzy Ashcraft stated that she would like to have the information shared with both the Alameda Sun and Alameda Journal.

Councilmember Vella stated laundry areas are essential functions; inquired whether something can be posted in facilities to inform people of any changes.

The Community Development Director responded in the affirmative.

Councilmember Vella expressed concern about vulnerable populations, which may not have access to, or be comfortable with, using different modes of technology in order to acquire information, stated small businesses may not be associated with a business groups and might not receive information.

Mayor Ezzy Ashcraft stated the City is under a shelter in place directive and any direction provided by Council to staff, including posting notices, should attempt to protect staff going out physically; notices could also be placed in Food Bank orders; stated staff can work to discover the best way to notify the most tenants and landlords possible.

Councilmember Vella expressed support for the lack of late fees and processing fees; inquired whether language has been reviewed prohibiting increases for residential and commercial tenants at this time.

The Community Development Director responded the ordinance does not include a freeze on rent increases; stated Council could provide direction to staff to return with something for consideration.

Councilmember Vella expressed support for a freeze on rent increases; stated there are currently millions of people applying for unemployment; that she would like staff to look into whether or not Council may place a freeze on increases at this time.

The Community Development Director stated a rent freeze could be imposed for residential tenants, but not for commercial tenants.

Mayor Ezzy Ashcraft inquired the reason a rent freeze would only apply to residential tenants.

The City Attorney responded if the City were not under a declared emergency, State law is clear that local agencies have no right to regulate rents with respect to commercial entities; stated the City's ability to regulate rent is exclusively residential; the Governor issued an Executive Order which carves out a narrow exception with respect to evictions; staff has reviewed the Order, which does not extend far enough to controlling rent; staff's recommendation is for residential tenants only.

Councilmember Vella inquired whether after one year, the rent due is no longer evictable.

The City Attorney responded staff does not believe the rent to be non-evictable; stated

local agencies have not been given authority to regulate the matter; case law needs to be evaluated to clarify.

The Community Development Director stated the ordinance, as drafted, will provide up to six months to repay any rent deferred during the local emergency; deferred rent is a separate issue.

Mayor Ezzy Ashcraft inquired whether the six month time frame begins when the emergency is over, to which the Community Development Director responded in the affirmative.

Mayor Ezzy Ashcraft inquired whether the City Manager will declare the emergency over.

The City Attorney responded either the Council or Governor will declare the emergency over; stated the declaration of emergency is adopted by the Council; therefore, the Council has the authority.

Councilmember Daysog inquired whether the current rent regime would place a maximum on any rent increases should the City not develop a rent freeze.

The City Attorney responded in the affirmative; stated Council has set the increase to be 70 to 75% of Consumer Price Index (CPI); rents cannot be increased beyond said index; the program administrator will announce the index in the fall; the previous year percentage was either 2.7 or 2.8%.

The Community Development Director stated the 70% of CPI maximum allowable adjustment of 2.8% would go into place without a rent freeze.

Councilmember Daysog inquired whether a rent increase issued effective July 1st could have a maximum increase of 2.8% as a result from the September 2019 CPI, to which the City Attorney responded in the affirmative.

Mayor Ezzy Ashcraft inquired how low rent increases could go should the CPI drop drastically given the economic conditions.

The City Attorney responded the increase could be zero; stated the result could never be negative.

Mayor Ezzy Ashcraft inquired whether the rent freeze would remain for the six month duration of non-payment.

Councilmember Vella stated that she would like feedback from staff on two options: 1) during the moratorium, and 2) in concurrence with the payback period; expressed concern about facing a rent increase and the burden of paying back rent.

Councilmember Oddie expressed support for a rent freeze; stated there are other topics to consider from various agencies; one month of rent will be easier to pay back over a six month period versus three months; rent cannot be collected that is over one year old; Berkeley has provisions related to rent increases based on original rent; that he would like to hear comments from the City Manager and City Attorney about judicial courts in California; many landlords can post items and notices.

Mayor Ezzy Ashcraft inquired whether Councilmember Oddie is questioning rent collection past one year old or asking staff to look into the validity of rent being ineligible past one year.

Councilmember Oddie stated the eligibility should be known; that he understands the court will not hear eviction cases.

The Community Development Director stated a publication has been issued related to court cases and evictions.

The City Attorney stated the Judicial Council's rule making provides for a 90-day period; the courts are not issuing summons for unlawful detainers; unlawful detainers may be all encompassing; the City Attorney's office has not had a chance to take a close look at the document; noted there will not be evictions for 90-days; the ordinance provides more protection than the Judicial Council rules; stated local protections are sufficient.

Mayor Ezzy Ashcraft expressed concern about the alternative stating: direct staff to prepare a revised ordinance based on City Council direction; such direction could include: expanding the moratorium to cover evictions due to no fault of the tenant, such as a removal from the rental market, unless necessary for the health and safety of tenants, neighbors or landlords; establishing the moratorium for a specific number of days, etc.; stated it will be difficult to be out and about looking for another place to rent let alone packing and moving during the shelter in place; inquired whether Council cannot allow said types of evictions during the emergency declaration; inquired whether Council would have to legally allow the evictions and if Council could require proof that the owner move-in is due to COVID-19; expressed concern about people being evicted during the crisis.

The City Attorney responded the ordinance is drafted to target protections for COVID-19 impacts; stated should Council want to expand the ordinance to preclude all evictions, staff will recommend not precluding evictions based on the Ellis Act due to State law requirements; under the Governor's Order, local jurisdictions cannot bypass Ellis Act provisions; many provisions based on owner move-in become illusory due to an owner exercising their right to an Ellis Act provision; tenants could not be evicted for quite some time based on no court summons being issued for 90 days; tenants are protected under both State and local law at this time.

The following comments were read into the record by the City Clerk:

Stated many of her neighbors cannot meet the high rent within the Bay Area; people fear becoming infected and becoming homeless; the span of the moratorium will not be long enough to help; urged Council to expand the moratorium to extend beyond the shelter in place, to require landlords to give tenants a period of no less than one year to bring back-rent current and to institute a freeze on rent increases for at least one year: Jacqueline Barden, Alameda.

Stated her family is experiencing a more than 50% loss of income due to COVID-19; unemployment claims have not been addressed; the urgency rent ordinance better protects renters; the ordinance does not ensure renters affected by COVID-19 have enough time to recoup loss of income and employment; urged Council to modify the ordinance with a freeze on rent increases for 2020 applying only to tenants experiencing a loss of 20% or more of their gross monthly income from COVID-19 disruptions, changing Section 3 of the urgency ordinance to extend the substantive defense against non-payment evictions from 180 days to 365 days after the conclusion of the COVID-19 pandemic, and extending the rent deferment policy to continue for 30 days after the City rescinds its emergency declaration: Staci Lewis, Alameda.

Expressed concerns about his landlords actions to evict tenants during the COVID-19 pandemic; noted that he lost his job in March; stated the ordinance does not fully protect renters through COVID-19 related financial hardships; urged Council to consider a freeze on rent increases for 2020 applying only to tenants experiencing a loss of 20% or more of their gross monthly income from COVID-19 disruptions, changing Section 3 of the urgency ordinance to extend the substantive defense against non-payment evictions from 180 days to 365 days after the conclusion of the COVID-19 pandemic, and extending the rent deferment policy to continue for 30 days after the City rescinds its emergency declaration: Stephen Bissinger.

Vice Mayor Knox White stated that he would like to discuss allowing eviction protection to go past 30 days after the state of emergency; people are having a hard time paying rent; expressed concern about Council being unable to provide much protection to those having a difficult time paying mortgages in relation to the rent freeze; stated residents have two new recent parcel tax items; going beyond 180 days would be a long time; Council cannot assume that all property owners can bear the lack of payment for months at a time.

The read an additional comment:

Expressed support for passing the moratorium on evictions ordinance including commercial and residential tenants; stated businesses will be able to maintain a roof over their head; the moratorium will help many who are struggling: Eric Gantos, Alameda.

Councilmember Oddie stated hopefully the speakers can take advantage of the new system; noted that Council needs to discuss and plan what will happen when things get back to normal; stated one month of rent is easier to absorb versus six months;

expressed support for a two year period and for the rent freeze; stated there are programs in place for people with mortgages; expressed support for a temporary freeze; stated there needs to be a way to make landlords whole again based on partial payments; the shelter in place could go on for an unknown amount of time; Council must be flexible and open to adjusting to whatever happens; this will likely not be the last emergency ordinance; expressed support for more eviction protections, including commercial tenants and finding ways to offer support to small businesses; stated the challenge is going to be how people get back on their feet; the next round of ordinances should include ways to help small businesses.

Mayor Ezzy Ashcraft stated anything done has to be fair in balancing all sides; that she is mindful of many landlords working with tenants; a lot has been imposed on property owners; no one should suffer; people will not be thrown out; repayment time periods can start out conservatively; proactive work from the State and County will create success at flattening the curve of COVID-19; more will be known before the next meeting; a year to repay rent is too long; expressed support for starting conservatively and extending if needed.

Councilmember Vella stated that there is an incredible amount of stress being placed on the community; people are now depending on the Food Bank in Alameda which has seen a tremendous increase; millions of people are applying for unemployment; expressed concern for those that are behind in paying, not only rent, but also utilities and other items; stated the stress of repayment is difficult; stated six months is a long time to pay items back, but the time is not long considering that people are unemployed with no way of earning an income for at least 3 months; stated there are a lot of things most families cannot prepare for and many could not prepare for this; expressed support for a longer payback period of 12 months; stated allowing longer payback periods will put more pressure on the federal and State government to come down harder on the banks and force a negotiation of longer payback terms; noted Governor Newsom has been able to negotiate a 90-day forgiveness period with banks; stated the federal government needs to do more; everyone must work together to prevent another housing and mortgage crisis; it is reasonable to allow a rent increase freeze through the end of 2020; expressed support for the inclusion of commercial tenant protection.

Councilmember Vella moved adoption of the urgency ordinance, with a 12-month repayment period.

Mayor Ezzy Ashcraft stated that she would like more information; that she would like staff to have the ability to hear from property owners in order to avoid operating in a vacuum; expressed support for Councilmember Vella's comments; stated that she has difficulty understanding the pressure being placed on State and federal government by this action; noted that she would like to ensure people are aware of the available assistance from federal, State and local governments; stated that she would like an understanding of the implications for all landlords; she would like staff to have a better opportunity to conduct outreach.

Councilmember Vella inquired whether Mayor Ezzy Ashcraft would be amenable to adopting the urgency as drafted with the 6-month repayment period and direction to staff to conduct more outreach and look at potential impacts of a longer repayment period.

Mayor Ezzy Ashcraft responded in the affirmative; stated that she would also like to see language in the ordinance about a rent freeze for residential tenants.

Councilmember Vella inquired whether it is possible for Council to find a way to support property owners and add priorities to lobbyists for mortgage relief for landlords.

Mayor Ezzy Ashcraft responded that she is in support of the idea; inquired whether the Council may take such action.

The City Manager and City Attorney responded in the affirmative.

Councilmember Vella moved adoption of the urgency ordinance, with direction for staff to return with rent freeze language for residential tenants, to conduct outreach relative to the payback period, and to look at impacts and language for an extended payback period.

Councilmember Oddie seconded the motion, with a friendly amendment to evaluate transition timing.

Under discussion, Vice Mayor Knox White stated that his understanding from the City Attorney would be to allow adding the 30-day language at the current time rather than delaying another two weeks for discussion.

The City Attorney stated some of the Council changes could be enacted at this meeting and some changes will have to wait until later; that he would like to review the list of actions that can be taken at this meeting and which need to be performed at a later date.

Vice Mayor Knox White stated that he would like to see how the City is balancing the rent freeze range; expressed support for the motion.

Councilmember Daysog stated the City is going to have to work with State and federal legislators and lobbyists sooner rather than later; outlined allowable tax expense examples for unpaid rent; stated smaller landlords would like some provisions allowed for unpaid rent expenses on tax returns.

The City Attorney reviewed the list of Council direction and possible timelines; stated direction has been given to look at a rent freeze for a short period; staff believes the rent freeze item can be brought back at the next Council meeting as another emergency ordinance; direction has been given to staff to look at whether or not the City can expand the substantive defense to be 30-days after the conclusion of the pandemic;

direction can be given at this meeting and will be incorporated into the current emergency ordinance as a clear, simple, additional change; direction has been provided to staff to look at whether or not a longer repayment period beyond 180-days after the conclusion of the pandemic is appropriate; staff will need approximately two months to conduct outreach to stakeholders; which can be done given the existing grace period of 180-days after the conclusion of the pandemic; direction has been provided for lobbying at this meeting and staff will do so as appropriate.

On the call for the question, the motion carried by the following roll call vote: Councilmembers Daysog: Aye; Knox White: Aye; Oddie: Aye; Vella: Aye; and Mayor Ezzy Ashcraft: Aye. Ayes: 5.

(20-210) Public Hearing to Consider Entitlements and a Development Agreement for the Development of the 9.4 Acre Property Located at 2229 to 2235 Clement Avenue with 182 Residential Units and Publicly Accessible Waterfront Open Space;

(20-210 A) Resolution No. 15641, "Approving Tentative Map Tract 8060 PLN 20-0118, Density Bonus Application PLN 20-0119, Development Plan PLN 20-0120 and Open Space Design Review PLN 20-0121 for Development of the 9.48 Acre Property Located at 2229 to 2235 Clement Avenue;" Adopted; and

(20-210 B) Introduction of Ordinance Approving a Development Agreement By and Between the City of Alameda and Boatworks, LLC Governing the Boatworks Project for Real Property Located at 2229 to 2235 Clement Avenue. Introduced.

The Planning, Building and Transportation Director, City Attorney and Assistant City Attorney gave a brief presentation.

Councilmember Oddie inquired whether changes made to the first reading can be placed into the second reading for final passage.

The City Attorney responded in the affirmative; stated any Council changes at the meeting will be considered dais changes and can be incorporated for adoption; when an item is brought back for second reading, the only change that can be made would be clerical changes, nothing substantive.

Councilmember Daysog stated the Planning Board had concerns related to the concession of affordable units requested by the project proponent; outlined the Density Bonus ordinance; noted that he did not see a proforma or financial report in the record as required.

The City Attorney stated State law has changed and become more restrictive; when the City's local Density Bonus ordinance was written, the onus fell on the developer; State law has recently changed; Government Code Sections 65915e1 provides that the City now has to bear proof or denial of a Density Bonus request; the change results in the City not being able to bear the burden to disprove the request.

The Planning, Building and Transportation Director stated State law has changed; the City now has the burden to provide evidence that there is no validity to the proponent's contention of project viability; the information would be a high lift for staff to produce and present to Council and would also present a high risk of challenge; noted the proponent is only allowed one concession.

Mayor Ezzy Ashcraft stated that she sits on a Statewide policy committee with Councilmember Vella; she has discussed housing production within the State as well as how to increase housing; the current crisis brings to light the lack of adequate housing; cities are scrambling to find hotel rooms, trailers, motels, etc. so those living in encampments are less likely to spread COVID-19; she understands where this change in State law is coming from.

Councilmember Daysog inquired whether the Planning Board expressed interest in conducting a study.

The Planning, Building and Transportation Director responded in the negative; stated all Planning Board members expressed concern about the aspect of State law and what the law means for future projects in Alameda; affordable units in Alameda are required to be distributed and of comparable size; Planning Board members expressed concern about State law overriding the City in good planning; the new law will make it difficult to impose requirements on future Density Bonus projects; future developers may use the same strategy; there is no quick fix of State law.

Councilmember Daysog stated the project is seeking a waiver to Alameda Municipal Code Section 30-4.2.D; the Code prohibits lot sizes less than 2,000 square feet; inquired whether the prohibition is also reflected in the City Charter.

The Planning, Building and Transportation Director responded in the affirmative; stated both waivers deal with the Municipal Code and City Charter.

Councilmember Daysog inquired City Council is able to waive a City Charter provision; stated it is a hard sell for him.

The City Attorney responded generally, the Council could not waive Charter provisions unless provided for by State law; stated State law allows an unlimited number of waivers under Density Bonus law to the extent that it precludes the project; in addition to one concession, State law also authorizes these types of waivers to the extent that they preclude the project and there is not a numerical limit; the City has a right, under State law, to attempt to demonstrate there are specific adverse impacts to public health and safety, the environment, or that the project would harm historical resources; Council would have to make very strong findings in order to deny such a waiver; staff is not aware of any case where a court has upheld a city denying a waiver on a similar basis of the prohibition of a multi-family residential housing; there is significant risk to the City; planning staff has recommended that there is no factual basis to make such findings; legal staff does not recommend Council deny the waiver.

The Planning, Building and Transportation Director stated the way State law is written, a developer may request, and the City can approve, a waiver of any development standard that precludes the additional units whether adopted by ordinance, resolution or initiative; State law is specific.

Councilmember Daysog stated the waiver requested from the developer goes around the third part of Measure A; Charter cities have some leeway that General Law cities do not with regard to initiatives; inquired the protections given by Charter cities with reference to initiatives.

The City Attorney responded Charter cities have the Home Rule Doctrine: Charter cities have the right to regulate municipal affairs, notwithstanding State law to the contrary; State law is clear on the issue of housing; the loss of affordable housing and the production of affordable housing is a Statewide concern; courts have upheld the findings many times; staff believes the legal fight would be difficult; should Council direct staff to take legal action, staff would comply; however, it is not the recommendation; Charter cities do not have home rule authority.

Stated that he is available to address questions or comments from Council; that he is looking forward to moving the project forward: Robert McGillis, Boatworks.

Expressed support for moving the project forward: urged Council not to take action on a portion of the density bonus waiver: Shona Armstrong, Boatworks.

The City Attorney stated Ms. Armstrong is requesting Council to delay action on the waiver on universal design, which is consistent with the Planning, Building and Transportation Director's request; the action is premature at this time; the Planning, Building and Transportation Director will be working with the project applicant to go to the Disability Commission first; the waiver may return to the Council at a later date.

Expressed gratitude for meeting under unprecedented conditions; noted the Planning Board has recommended approval of the project; stated that she is available to help: Nicoley Collins, Boatworks

Vice Mayor Knox White expressed support for the project; stated staff has a chance to work out details with Boatworks; the item will come back for a second reading.

Councilmember Oddie stated that he agrees with comments made by the Planning, Building and Transportation Director; noted the City Manager and the Planning, Building and Transportation Director have been instrumental in reaching this point; stated the item is being discussed at a strange time in history; expressed support for the item.

Mayor Ezzy Ashcraft stated that she agrees with Vice Mayor Knox White and Councilmembers Oddie and Vella; only items of crucial importance are being considered; providing more housing is of crucial importance; noted that she served on

the Planning Board when Boatworks project was considered; stated that she is thrilled to see the project come to fruition; the perfect should never be the enemy of the good; expressed concern about correspondence received which indicated all affordable housing units being placed together would yield less upkeep; expressed support for more roofs over more heads as soon as possible and for the item.

Councilmember Daysog stated that he will be opposing the project; the request for a waiver from the Municipal Code is causing the project to perform an “end around” of a 1991 City Charter provision adopted by the people; the project has to be consistent with what the people adopted; changes to Charter provisions must be made through the ballot process; he has had a long-standing dislike of how the Density Bonus rule comes into play; the baseline project zoning should allow for 140 units; local inclusionary housing rule indicates 15% affordable housing must be set aside and is mandatory; then, project proponents receive a bonus of 30%; the Density Bonus rule is squirrely; the City should not be giving a “bonus” to projects that have to adhere to the inclusionary housing rule; bonuses should only be provided should the proponent go above the inclusionary housing rule.

Vice Mayor Knox White moved approval of the item [adoption of the resolution and introduction of the ordinance].

Councilmember Vella seconded the motion which carried by the following roll call vote: Councilmembers Daysog: No; Knox White: Aye; Oddie: Aye; Vella: Aye; and Mayor Ezzy Ashcraft: Aye. Ayes: 4. Noes: 1.

CITY MANAGER COMMUNICATIONS

(20-211) The City Manager made an announcement regarding COVID-19 and referred people to the website: www.alamedaca.gov/alerts; urged social distancing practices continue; stated those that must be out for essential purposes benefit greatly from social distancing; a fire at Alameda Point has displaced many residents.

Mayor Ezzy Ashcraft requested that the City Manager provide information related to how staff is distributing food to residents of the Housing Authority.

The City Manager stated staff is helping in many ways; assistance is being provided to the Food Bank; staff has been designated to help certain non-profit organizations in getting meals to those who cannot leave their house.

Mayor Ezzy Ashcraft noted a program will be brought to Mastick Senior Center which delivers bulk food twice a week.

ORAL COMMUNICATIONS, NON-AGENDA

None.

COUNCIL REFERRALS

None.

COUNCIL COMMUNICATIONS

(20-212) Mayor Ezzy Ashcraft expressed her appreciation for medical personnel, first responders, essential service providers, retail clerks and drivers, sanitation workers, and transit workers; expressed gratitude toward members of the public who are following proper protocol; noted it is advisable in smaller, closed areas to wear a face covering or mask; many people are practicing social distancing and following the shelter in place order; stated everyone is in this together; the Governor has communicated frequently about the status and timing of items; public health officers are working together throughout the County; urged all to continue social distancing and follow the shelter in place order; expressed gratitude for City staff.

(20-213) Councilmember Oddie expressed gratitude for Mayor Ezzy Ashcraft's leadership and City staff.

(20-213A) Stopwaste March 2020 Topic Brief: Fruit and Veggie Storage Guide. (Councilmember Oddie) [Informational only]

Councilmember Oddie made brief comments.

(20-214) Vice Mayor Knox White expressed gratitude toward City staff and the Mayor of San Francisco.

(20-215) Councilmember Daysog stated the following days and weeks are going to be very trying; urged people to do even more to stay safe.

ADJOURNMENT

There being no further business, Mayor Ezzy Ashcraft adjourned the meeting at 9:28 p.m.

Respectfully submitted,

Lara Weisiger
City Clerk

The agenda for this meeting was posted in accordance with the Sunshine Ordinance.

MINUTES OF THE SPECIAL MEETING OF THE CITY COUNCIL
TUESDAY- -APRIL 7, 2020- -7:01 P.M.

Mayor Ezzy Ashcraft convened the meeting at 9:29 p.m.

ROLL CALL - Present: Councilmember Daysog, Knox White, Oddie, Vella
and Mayor Ezzy Ashcraft – 5.

[Note: Councilmembers Knox White, Oddie and Vella were present
via teleconference.]

Absent: None.

AGENDA ITEMS

(20-216) Recommendation to Approve Recommendations on Continuation of City Operations and Compensation for Employees, Implementation of the Families First Coronavirus Response Act (FFCRA) and to Increase Vacation Accrual Caps and Other Employees Actions Related to the City Response to COVID-19.

The Human Resources Director gave a brief presentation.

Councilmember Daysog inquired whether the item covers part-time staff.

The Human Resources Director responded many departments continue to have work for part-time staff; stated staff is not recommending the continuation of pay for part-time employees past the COVID-19 bank; there are many part-time employees that do not have work; staff recommends working with part-time employees, providing the available hours, but they can also apply for unemployment; some part-time employees continue to work in a very specialized manner and continue work.

Councilmember Oddie moved approval of the staff recommendation.

Vice Mayor Knox White seconded the motion.

Under discussion, Councilmember Vella stated that she is ready to support the item.

On the call for the question, the motion carried by the following roll call vote: Councilmembers Daysog: Aye; Knox White: Aye; Oddie: Aye; Vella: Aye; and Mayor Ezzy Ashcraft: Aye. Ayes: 5.

COUNCIL REFERRALS

(20-217) Consider Directing Staff to Identify Funding for Four Federal Emergency Management Agency (FEMA) Trailers and Develop an Overnight Safe Parking Site for Homeless.

Mayor Ezzy Ashcraft made brief comments.

The City Manager stated the trailers are expected to be picked up tomorrow and through the rest of the week; the FEMA trailers will be located at Alameda Point and will be dedicated to homeless individuals, medically at-risk, seniors, and those who fall in the medically fragile category; staff is working with partners at Operation Dignity, Building Futures and the Alameda Police Department (APD) Homeless Unit in order to locate individuals; noted safe parking for up to 25 cars is still a couple of weeks out and will be located at the Encinal Boat Launch; stated safe parking times will be open from 7:00 pm to 7:00 am.

Mayor Ezzy Ashcraft concluded her comments; stated staff is working on utility hookups and staffing for the trailers; the safe parking areas are for individuals living in their cars; the parking area is not available 24 hours, but is available for overnight use and a security company will be staffing the area; portable restroom facilities, shower trucks and laundry facilities are being considered; staff is exploring the possibility of providing a safe parking location at the College of Alameda; noted Supervisor Chan has outlined County guidelines for safe parking; stated City staff has been great and has looked at guidelines from other cities safe parking guidelines; the COVID crisis makes these items urgent; the Governor has directed cities to find places to house the unsheltered because they are at high risk.

Councilmember Vella expressed stated this is the right thing to do; expressed support for the item.

Mayor Ezzy Ashcraft stated the trailers come to the City for free; the trailers are new and will provide a resource during the COVID crisis; and the City can use the trailers even after the COVID crisis.

Councilmember Oddie stated homelessness has been a known issue for a long time; expressed support for making solutions permanent.

Mayor Ezzy Ashcraft stated the first steps are the hardest; once policies and guidelines are in place lessons are learned.

Councilmember Daysog requested clarification about the safe parking areas.

The City Manager responded the area near the Fire training site; stated the area is fenced in and not far from the Encinal Boat Launch.

Mayor Ezzy Ashcraft stated the location is near Alameda Point and the Encinal Boat Ramp.

Councilmember Daysog inquired the process for safe parking; questioned whether the operation will be on a first come first served basis.

Mayor Ezzy Ashcraft responded the safe spaces will be registered; stated a combination of working with Building Futures and Operation Dignity will be used with certain criteria to be followed; no Recreational Vehicles (RV's) will be allowed; noted facilities for homeless have changed since COVID-19 and have created a separate health and safety crisis; the safe parking process will be regulated.

Vice Mayor Knox White stated the trailer direction is to come back with funding ideas at some point as potentially part of the budget discussion and to continue to work on safe parking in the discussions.

Mayor Ezzy Ashcraft inquired whether Vice Mayor Knox White is requesting safe parking be part of the budget discussion.

Vice Mayor Knox White responded that he is questioning the direction being provided to staff.

Mayor Ezzy Ashcraft stated direction is to develop funding for the four trailers; the trailers are free, but they do come with a need for some staff and security oversight; the overnight safe parking will require working with Operation Dignity and Building Futures.

The City Manager stated the safe parking areas will have security as well.

Vice Mayor Knox White inquired whether the expenses are Homeless Emergency Aid Program (HEAP) funded.

Mayor Ezzy Ashcraft responded some is HEAP and Home Acquisition Program (HAP) funded.

The City Manager stated the safe parking is part of HEAP funding.

Mayor Ezzy Ashcraft stated Oakland Mayor Schaaf announced Alameda County will receive \$3 million related to the FEMA trailers; noted staff will be looking into said funding opportunity.

The City Manager stated the funding has been indicated as not available for FEMA trailers; noted the \$3 million funding is primarily related to the hotel project.

Mayor Ezzy Ashcraft stated funding will be pursued; noted that she has received messages related to funding for the FEMA trailers.

Vice Mayor Knox White moved approval of Council supporting and encouraging staff to come back with a funding plan for the FEMA trailers and continue to support moving the parking forward with a program to be developed.

Councilmember Oddie seconded the motion.

Under discussion, Councilmember Daysog stated that he is not in support of the safe parking aspect.

Councilmember Oddie inquired whether the motion could be bifurcated.

Vice Mayor Knox White expressed support for bifurcating the motion.

On the call for the question regarding the FEMA trailer funding, the motion carried by the following roll call vote: Councilmembers Daysog: Aye; Knox White: Aye; Oddie: Aye; Vella: Aye; and Mayor Ezzy Ashcraft: Aye. Ayes: 5.

Vice Mayor Knox White moved approval of continuing to work on the safe parking.

Councilmember Vella seconded the motion, which carried by the following roll call vote: Councilmembers Daysog: No; Knox White: Aye; Oddie: Aye; Vella: Aye; and Mayor Ezzy Ashcraft: Aye. Ayes: 4. Noes: 1.

Mayor Ezzy Ashcraft inquired the conditions for Councilmember Daysog to convert his vote.

Councilmember Daysog responded he would need more information and can discuss the issue with staff.

Mayor Ezzy Ashcraft stated questions should be directed at the City Manager.

ADJOURNMENT

There being no further business, Mayor Ezzy Ashcraft adjourned the meeting at 9:49 p.m.

Respectfully submitted,

Lara Weisiger
City Clerk

The agenda for this meeting was posted in accordance with the Sunshine Ordinance.